

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

Joshua Jackson Rideout,)
)
Plaintiff,)
)
v.) Case No. 1:09-00082-LMB
)
Eric Holder, United States Attorney General;)
Michael C. Reap, Acting United States Attorney;)
Chris Koster, Attorney General for Missouri;)
Ron Barnett, Sheriff of Ripley County, Missouri;)
Grady James Coble, Naylor, Missouri Chief of)
Police; Jim C. Arnott, Sheriff of Greene County,)
Missouri; Lynn Rowe, Springfield, Missouri)
Chief of Police; Jimmie D. Russell, Sheriff of)
Taney County, Missouri; Carroll W. McCullough)
Branson, Missouri Chief of Police; Robert)
Dwayne Carey, Jr., Sheriff of Boone County,)
Missouri; Kenneth M. Burton, Columbia,)
Missouri, Chief of Police; Jerry Lee, Saint Louis)
County, Missouri Police Department; Daniel)
Isom, Saint Louis City, Missouri Chief of Police,)
)
Defendants.)

**SUGGESTIONS IN SUPPORT OF DEFENDANT JIM C. ARNOTT'S
MOTION TO DISMISS PLAINTIFF'S COMPLAINT**

COMES NOW Defendant, Jim C. Arnott, by and through his attorney, and respectfully requests the Court pursuant to F.R.Civ.P. 12(b)(6) and 41(b) to dismiss Plaintiff's Complaint in its entirety for failure to state a claim as to this Defendant.

Defendant Arnott adopts and incorporates by reference as if fully set forth herein the Memorandum and Suggestions In Support of the Motions to Dismiss filed by Defendants Reap (Doc. No. 31), Rowe (Doc. No. 32), Holder (Doc. No. 37), Burton (Doc. No. 40) and Isom (Doc. No. 42).

DISMISSAL PURSUANT TO RULE 41(b)

Plaintiff's 79-page Complaint consisting of 160 paragraphs and numerous footnotes contains lengthy legal arguments, as opposed to facts; which clearly violates the provisions of

Rule 8(a)(2) and (e)(1). Rule 8(a)(2) requires that a complaint contain “a short and plain statement of claim showing that pleader is entitled to relief.” Rule 8(e)(1) also requires that each averment in a Complaint be “simple, concise and direct.” Plaintiff’s Complaint fails to comply with Rule 8, and Rule 41(b) provides that a defendant may move for dismissal of an action for failure of the Plaintiff to comply with the Federal Rules of Civil Procedure. Accordingly, Defendant respectfully moves the Court to dismiss Plaintiff’s Complaint pursuant to Rule 41(b).

DISMISSAL PURSUANT TO RULE 12(b)(6)

Plaintiff’s Complaint fails to state a claim against Defendant Arnott, who is sued in his official capacity as the Sheriff of Greene County, Missouri. (**Plaintiff’s Complaint, ¶ 12**). In a Section 1983 case, the Plaintiff’s Complaint must allege how the Plaintiff’s rights have been violated by a defendant. *Ledbetter v. City of Topeka, Kansas*, 318 F.3d 1183, 1188 (10th Cir. 2003). Plaintiff’s voluminous Complaint is devoid of any other allegations which referred to Defendant Arnott or allege how Plaintiff’s rights are violated by this Defendant.

SORNA requires a sex offender, such as the Plaintiff, to register in each jurisdiction where the “offender” resides, where the offender is an employee, and where the offender is a student.” 42 U.S.C. §16913. Plaintiff alleges in his Complaint that he is a resident of Naylor, Missouri, which is located in Ripley County. (**Plf. Complaint, ¶ 3**). Plaintiff alleges he intends to gain employment in the neighboring county. (**Plf. Complaint, ¶ 3**). Greene County is not a neighboring county of Ripley County, Missouri. Moreover, Plaintiff does not allege that he is a resident of any city in Greene County, employed in Greene County, or that attends a higher education institution in Greene County, Missouri. Indeed, Plaintiff is currently confined as a prisoner at a Federal Correctional Institution in Seagoville, Texas. At best, Plaintiff alleges that upon his release from prison he “expects to attend periodic business related conferences,

meetings, seminars, training and certification procedures in Branson, Columbia, and St. Louis; all within Missouri.” (**Plaintiff’s Complaint, ¶ 3**). Defendant Arnott would request the Court to take judicial notice that none of the foregoing cities are located in Greene County, Missouri.

Defendant’s counsel is at a loss from reviewing the allegations contained in Plaintiff’s Complaint as to what Plaintiff’s connection as a sex offender is to Greene County, Missouri, or more specifically, why Defendant Jim C. Arnott is named as a Defendant in the instant action. Plaintiff does not make any allegations that there is the possibility that once he is released from prison he intends to reside, become employed, or attend an educational institution as a student in Greene County, Missouri, which would require him register as a sex offender in Greene County under either Missouri law or SORNA. As a result, this Complaint should be dismissed against Defendant Jim C. Arnott, in his official capacity as Greene County Sheriff, for lack of ripeness.

For the foregoing reasons, Plaintiff has failed to state a claim upon which relief can be granted against Defendant Arnott. Accordingly, Defendant Arnott should be dismissed from this action with prejudice.

OFFICE OF GREENE COUNTY COUNSELOR

By: /s/ John W. Housley
 John W. Housley
 Missouri Bar No. 28708
 901 St. Louis, 20th Floor
 Springfield, Missouri 65806
 Telephone 417-866-7777
 Facsimile 417-866-1752
*Attorney for Separate
 Defendant Jim C. Arnott*

CERTIFICATE OF SERVICE

The undersigned certifies that a true and accurate copy of the foregoing document was served by operation of the Court's electronic filing systems on this 24th day of August, 2009, upon:

Thomas C. Albus tom.albus@usdoj.gov
Attorney for Defendant Michael Reap

Christine L. Hodzic hodzicc@stlouiscity.com
Attorney for Daniel Isom

Robert J. Krehbiel rkrebiel@khhb.com
Attorney for Kenneth M. Burton

Christopher J. Quinn quinn@ago.mo.gov
Attorney for Chris Koster

Daniel R. Wichmer dwichmer@springfield.mo.gov
Attorney for City of Springfield

Charles J. Dykhouse cdykhouse@boonecountymor.org
Attorney for Dwayne Carey, Boone County Sheriff

Further, the undersigned hereby certifies that on the 24th day of August, 2009, the foregoing pleading was mailed via United States Postal Service to the following non CM/ECF participant(s):

Joshua Jackson Rideout
32554-044
Seagoville Federal Correction Institution
P.O. Box 9000
Seagoville, Texas 75159

Donna Rideout
Route 1, Box 3410
Naylor, MO 63953

/s/ John W. Housley
**John W. Housley, Attorney for Separate
Defendant Jim C. Arnott**